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**TO**  
**SUBCONTRACT SCHEDULE**

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**SUBCONTRACT NO. \*\*\*\_\*\_\*\*\*\*\*\_\*\***

**UNDER**

**PRIME CONTRACT NO. DE-AC36-99GO10337**

**CONTRACTING PARTY:** MIDWEST RESEARCH INSTITUTE  
NATIONAL RENEWABLE ENERGY LABORATORY  
DIVISION

**SUBCONTRACTOR:** \*

**ADDRESS:** \*

**SUBCONTRACT TITLE:** ""

**TYPE OF SUBCONTRACT:** FIRM FIXED PRICE

**PERIOD OF PERFORMANCE:** EXECUTION DATE THROUGH SIX (6) MONTHS

**SUBCONTRACT AMOUNT:** \$\*

**PAYMENT TERMS:** NET 30

**SUBCONTRACTOR'S** \*  
**REMITTANCE NAME** \*  
**AND ADDRESS:**

**FUNDED AMOUNT AND**  
**TASK CHARGE NUMBER:** \$\*

**SUBCONTRACT NO. \*\*\*-\*-\*\*\*\*\*-\*\***

**BETWEEN**

**MIDWEST RESEARCH INSTITUTE**

**NATIONAL RENEWABLE ENERGY LABORATORY DIVISION**

**AND**

**\***

**SCHEDULE**

**INTRODUCTION**

THIS SUBCONTRACT is effective upon execution by the Midwest Research Institute, National Renewable Energy Laboratory Division and is between the Midwest Research Institute, acting through its National Renewable Energy Laboratory Division (hereinafter called "NREL") and \* (hereinafter called "Subcontractor"), whose principal offices are located in \*.

Midwest Research Institute has entered into Contract No. DE-AC36-99GO10337 (hereinafter called "Prime Contract") with the Department of Energy (hereinafter called "DOE"), an agency of the U.S. Government (hereinafter called "Government"), for the operation and management of the National Renewable Energy Laboratory.

This subcontract is entered into in furtherance of the performance of the work provided for in the Prime Contract.

**AGREEMENT**

NOW, THEREFORE, the parties hereto agree to the following terms and conditions:

**ARTICLE 1 – THE WORK TO BE PERFORMED**

- A. The Subcontractor shall perform the work generally described as "\*\*\*", and specifically provided for in Appendix A, Statement of Work, attached hereto and made a part hereof, pursuant to the provisions of this subcontract.
- B. Specific deliverables, quantities, due dates, reporting requirements, and addresses are set forth in Appendix A hereto.

**ARTICLE 2 – THE PERIOD OF PERFORMANCE**

The period of performance under this subcontract shall commence upon the date of execution and shall be completed \* from such date; provided, however, that this period may be extended for additional periods by mutual written agreement of the parties.

**ARTICLE 3 – PRICE AND PAYMENT**

- A. In full consideration of the Subcontractor's performance, hereunder, NREL shall pay the Subcontractor the prices stipulated in B below, less any deductions provided in this subcontract. The total price for performance and receipt and acceptance of all deliverables under this subcontract is \$\*\*.
- B. Payments will be made by NREL upon receipt and acceptance of the following deliverables in the amount specified:

	<u>Occurrences</u>	<u>Amount</u>
1.	**	\$**
2.	**	\$**
3.	**	\$**
4.	**	<u>\$**</u>
.	Total Price:	\$**

Said payments shall be made after receipt of and acceptance by NREL of the specified deliverables above and upon submission by the Subcontractor of an invoice, in a form satisfactory to the Subcontract Administrator in accordance with the article entitled "Invoices"; provided, however, that said payments shall not be deemed to prejudice any rights which NREL may have by law or under other provisions of this subcontract.

**ARTICLE 4 – APPLICABLE DOCUMENTATION**

In addition to the terms and conditions contained in this Schedule, the following documents are attached hereto and made a part of this subcontract:

- A. Appendix A, entitled "Statement of Work" dated 11/20/07.
- B. Appendix B-3, entitled "Standard Terms and Conditions" dated 10/01/03.
- C. Attachment 1, entitled "Addendum to Appendix B-3 Standard Terms and Conditions" dated 10/01/07.
- D. Appendix C-3, entitled "Intellectual Property Provisions" dated 10/22/98.
- E. Subcontractor's technical proposal number (none) dated \* together with any revisions, is hereby incorporated by reference. In the event there is a conflict between the Subcontractor's technical proposal and any other provisions of this subcontract, the latter shall prevail.

**ARTICLE 5 – ORDER OF PRECEDENCE**

Any inconsistency in this subcontract shall be resolved by giving precedence in the following order:

- A. This Schedule;
- B. Statement of Work (Appendix A);
- C. Standard Terms and Conditions (Appendix B-3);
- D. Addendum to Standard Terms and Conditions (Attachment 1 to Appendix B-3);
- E. Intellectual Property Provisions (Appendix C-3);
- F. Other provisions of this subcontract whether incorporated by reference or otherwise; and
- G. The Subcontractor's technical proposal, if incorporated in this subcontract by reference or otherwise.

**ARTICLE 6 – RIGHTS TO PROPOSAL DATA**

Except for technical data contained on pages (None) of the subcontractor's proposal dated \*\* which are asserted by the Subcontractor as being proprietary data, it is agreed that, as a condition of the award of this subcontract, and notwithstanding the provisions of any notice appearing on the proposal, the Government and NREL shall have the right to use, duplicate, disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this subcontract is based.

**ARTICLE 7 – SUBCONTRACT ADMINISTRATION RESPONSIBILITIES**

- A. Signature Authority: This subcontract may only be modified by a formal modification signed by an authorized official of NREL.
- B. Subcontract Administration Responsibilities: The authorized official of NREL has designated Kim Tangler as the Subcontract Administrator for this subcontract with the responsibilities for subcontract administration and negotiation of any modifications to this subcontract. The Subcontract Administrator's telephone number is 303-384-7018.
- C. Technical Monitoring Responsibilities: The authorized official of NREL has designated \*\* as the Technical Monitor for this subcontract with the responsibilities of monitoring the technical work or services to be performed under this subcontract. The Technical Monitor does not have the authority to make any commitments or authorize any changes which may affect the subcontract's price, scope of work, terms, or conditions. Any such changes shall be referred to the Subcontract Administrator designated in Paragraph B above. The Technical Monitor's telephone number is 303-\*\*.

**ARTICLE 8 – KEY PERSONNEL**

- A. It having been determined that the individuals, whose names appear below, are necessary for the successful performance of this subcontract, the Subcontractor agrees to assign or have assigned such individuals to the performance of the work under this subcontract and shall not reassign or remove any of them without the consent of the Subcontract Administrator by modification to this subcontract:

<u>Name</u>	<u>Project Title</u>	<u>Telephone No.</u>
*	*	*

- B. Whenever, for any reason, one or more of the designated key personnel designated above, is unavailable for assignment for work under this subcontract, the Subcontractor shall, with the approval of the Subcontract Administrator, replace such individual with an individual of substantially equal abilities and qualifications.

**ARTICLE 9 – INVOICES**

Invoices for work accomplished under this subcontract shall be submitted in an original and one copy to:

National Renewable Energy Laboratory  
Attn: Kim Tangler, M/S 3811  
1617 Cole Boulevard  
Golden, CO 80401-3393

To facilitate processing and payment each invoice shall include as applicable the following: (1) the date of the invoice, (2) the subcontract number which appears on the cover sheet of this subcontract, (3) the occurrence number associated with the requested payment as contained in Article 3 or a description of the supplies, or services covered by the invoice; and (4) any other information or documentation required by other provisions of this subcontract.

Payments under this subcontract shall be made in accordance with the payment terms and to the Subcontractor's remittance name and address shown on the cover sheet of this subcontract. Final payment under this subcontract shall be made upon receipt of any required patent clearance from DOE.

The payment terms of this subcontract shall mean net days from the date of receipt of an acceptable invoice or the date of receipt and acceptance of all deliverables, reporting requirements or closeout documentation covered by the invoice, whichever is later.

The Subcontractor shall submit its invoices in reasonable detail in accordance with the payment schedule contained in the Article 3 showing the total fixed price invoiced both currently and cumulatively. An authorized representative of the Subcontractor shall sign the following certification on each invoice submitted for payment:

"I certify that this invoice is correct and

proper for payment, and reimbursement for this amount has not and will not be received under any other Government contract or subcontract or other source of Government funds.

\_\_\_\_\_  
Authorized Official

\_\_\_\_\_  
Date”

The Subcontractor is hereby notified that NREL may withhold payment on invoices submitted, if the Subcontractor has failed to comply with or is delinquent in the submission of the reporting or deliverable requirements under this subcontract associated with the fixed price payment, until such time as the Subcontractor has complied or submitted such reporting or deliverable requirement.

**ARTICLE 10 – PUBLICITY RELEASE AND PUBLIC AFFAIRS** (domestic small business, educational institutions and other non profit organizations)

- A. Publicity release of any nature in connection with this subcontract shall be coordinated as provided in the “Public Affairs” clause of Appendix B. The Subcontractor shall not make without prior review and approval of the NREL Subcontract Administrator, any publicity release of any nature of general, non-technical information in connection with this subcontract. For purposes of this subcontract, general, non-technical information means any information concerning the existence of the subcontract, the identity of the parties, and the scope and general character of the research or technical activity. As used in this Article, “publicity release” does not include a lawful inspection of the Subcontractor’s records conducted pursuant to Federal or State public records access statutes. The Subcontractor may report specifics regarding the formation and execution of this subcontract in its internal publications without prior review and approval of the NREL Subcontract Administrator.
- B. Data rights are set forth in Appendix C hereof.

**OR**

**ARTICLE 10 – PUBLICITY RELEASE AND PUBLIC AFFAIRS** (large businesses, state and local governments or foreign organizations)

- A. Publicity release of any nature in connection with this subcontract shall be coordinated as provided in the “Public Affairs” clause of Appendix B. The Subcontractor shall not make without prior review and approval of the NREL Subcontract Administrator, any publicity release of any nature of general, non-technical information in connection with this subcontract. For purposes of this subcontract, general, non-technical information means any information concerning the existence of the subcontract, the identity of the parties, and the scope and general character of the research or technical activity. As used in this Article, “publicity release” does not include a lawful inspection of the Subcontractor’s records conducted pursuant to Federal or State public records access statutes. The Subcontractor may report specifics regarding the formation and execution of this subcontract in its internal publications without prior review and approval of the NREL Subcontract Administrator.
- B. Data rights are set forth in Appendix C hereof. The Subcontractor should particularly

note that all papers and documents that are required for submittal and distribution for patent clearance under this subcontract should first be submitted to the Department of Energy, Intellectual Property Law Division, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439 prior to distribution to the public. This requirement of patent clearance prior to publication of all Subcontractor's reports is specifically required and set forth in Appendix C hereof.

## **ARTICLE 11 – ALTERATIONS TO TERMS AND CONDITIONS**

Appendix B-3 is hereby modified by adding the following clause thereto:

### **“CLAUSE 61 - ORGANIZATIONAL CONFLICTS OF INTEREST (SPECIAL) (MAY 2004)**

(Derived from DEAR 952.209-72 - JUNE 1997)

#### **A. Purpose**

The purpose of this clause is to ensure that the Subcontractor: (1) is not biased because of its financial, contractual, organizational, or other interests that relate to the work under this subcontract and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this subcontract.

#### **B. Scope**

The restrictions described herein shall apply to performance or participation by the Subcontractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "Subcontractor") in the activities covered by this clause as a prime contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

##### **1. Use of Subcontractor's Work Product**

- (i) The Subcontractor shall be ineligible to participate in any capacity in NREL or DOE contracts, subcontracts, or proposals therefor (solicited and unsolicited) that stem directly from the Subcontractor's work product under this subcontract for a period of five years after the completion of this subcontract. Furthermore, unless so directed in writing by the NREL Subcontract Administrator, the Subcontractor shall not perform any advisory and assistance services work under this subcontract on any of the Subcontractor's products or services or the products or services of another firm, if the Subcontractor is or has been substantially involved in the development or marketing of the firm's products or services. Nothing in this subparagraph shall preclude the Subcontractor from competing for follow-on subcontracts for advisory and assistance services.
- (ii) If, under this subcontract, the Subcontractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the Subcontractor shall be ineligible to perform or participate in any capacity in any contractual effort that is based on such statement of work or specifications. The Subcontractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the



NREL Subcontract Administrator, in which case the restriction in this subparagraph shall not apply.

- (iii) Nothing in this paragraph shall preclude the Subcontractor from offering or selling its standard and commercial items to NREL or the Government.

## 2. Access to and use of information

- (i) If the Subcontractor, in the performance of this subcontract, obtains access to information, such as NREL or DOE plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data that has not been released or otherwise made available to the public, the Subcontractor agrees that without prior written approval of the NREL Subcontract Administrator it shall not:
  - a. Use such information for any private purpose unless the information has been released or otherwise made available to the public;
  - b. Compete for work for NREL or the Government based on such information for a period of six (6) months after either the completion of this subcontract or until such information is released or otherwise made available to the public, whichever is first;
  - c. Submit an unsolicited proposal to NREL or the Government that is based on such information until one year after such information is released or otherwise made available to the public; and
  - d. Release such information unless such information has previously been released or otherwise made available to the public by NREL or the Government.
- (ii) In addition, the Subcontractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this subcontract, it shall treat such information in accordance with any restrictions imposed on such information.
- (iii) The Subcontractor may use technical data it first produces under this subcontract for its private purposes consistent with subparagraphs (B) (2) (i) (a) and (d) of this clause and the patent, rights in data, and security provisions of this subcontract.

## C. Disclosure after award

- 1. The Subcontractor agrees that if changes, including additions, to the facts disclosed by it prior to award of this subcontract occur during the performance of this subcontract, it shall make an immediate and full disclosure of such changes in writing to the NREL Subcontract Administrator. Such disclosure may include a description of any action that the Subcontractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. NREL may, however, terminate the

subcontract for convenience if it deems such termination to be in the best interest of NREL and the Government.

2. In the event that the Subcontractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the NREL Subcontract Administrator, NREL may terminate this subcontract for default.

#### D. Remedies

For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this subcontract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, NREL may terminate the subcontract for default, disqualify the Subcontractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this subcontract.

#### E. Modification

Request for a modification of the requirements under this clause shall be directed in writing to the NREL Subcontract Administrator and shall include a full description of the requested modification and the reasons in support thereof. If it is determined to be in the best interests of NREL and the Government, the NREL Subcontract Administrator will notify the Subcontractor in writing that such modification is accepted.

### ARTICLE 12 – INTEGRATION

This subcontract contains the entire understanding between the parties, and there are no understandings or representations except those set forth or incorporated by reference herein. No subsequent modifications of this subcontract shall be of any force or effect unless in writing signed by a duly authorized official of NREL.

IN WITNESS WHEREOF, the parties hereto have executed this subcontract as of the date fully signed below.

ACCEPTED: \*

AUTHORIZED: MIDWEST RESEARCH INSTITUTE  
NATIONAL RENEWABLE ENERGY LABORATORY DIVISION

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_